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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,846	03/24/2004	David A. Bulpett	B03-31	5470

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EXAMINER

BUTTNER, DAVID J

ART UNIT PAPER NUMBER

1712

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/807,846

Applicant(s)

BULPETT ET AL.

Examiner

David Buttner

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7, 8, 10, 12-30, 33, 34, 36, 37 and 39-55 is/are pending in the application.
- 4a) Of the above claim(s) 14-24 and 39-55 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7, 8, 10, 12, 13, 25-30, 33, 34, 36, 37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claims 1-4,7,8,10,12 and 13 rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Bissonnette 2002/0119834.

Bissonnette exemplifies (#5,6,8,9,11,12,14,15,17,18) golf balls of polybutadienes having 20-60% trans configuration and 0.1-5% vinyl isomer. Bissonnette does not explain how these trans polybutadienes were prepared, but there is no reason to believe these rubbers are any different from the material resulting from applicant's product by process limitation. The burden to show otherwise is shifted to applicant (MPEP 2113).

Claims 1-4,7,8,10,12,13,25-30,33,34,36 and 37 rejected under 35 U.S.C. 103(a) as being unpatentable over Bissonnette 2002/0119834 in view of Golub '175.

Bissonnette calls for trans polybutadiene for use in golf balls, but do not suggest obtaining the trans polybutadiene by irradiating a cis polybutadiene.

Such a technique for making trans polybutadiene is known. Golub (example V) irradiates a benzene solution of high cis polybutadiene in the presence of thionaphthol. 11-64% trans configuration results. The treatment is carried out in an inert atmosphere (col 3 line 48). Golub (col 6 line 34) suggests his converted polybutadienes are suitable for any use. It would have been obvious to utilize Golub's conversion technique to obtain trans polybutadiene for use in any of the primary reference's golf balls.

Applicant's arguments filed 1/19/06 have been fully considered but they are not persuasive.

Applicant argues Bissonnette does not disclose the process of the instant claims.

This is not convincing. Product by process claims are not limited by the manipulations of the recited steps, only the structure implied by the steps (MPEP 2113). Determination of patentability is determined by the product itself. There is nothing of record to indicate the final product of applicant is any different than that of Bissonnette.

Applicant argues Golub fails to disclose a solution conversion and that the resultant polybutadiene is free of crosslinking, cyclization and gel.

This is not convincing. Golub clearly makes a solution of polybutadiene in benzene in his examples. This is the same solvent applicant prefers (page 5 line 28). Clearly, the solution is irradiated. In Golub's example I, the treated polybutadiene viscosity remains substantially unchanged. Therefore, MW is unchanged. The unsaturation of the polybutadiene (iodine number) was essentially unchanged. There is no reason to believe there is crosslinking/cyclization/gel in Golub's treated polybutadiene. Additionally, Golub (example VI) uses the same amount of sensitizer (0.75g/40ml) as applicant calls for (1-2g/100ml) at page 6 line 15 of the specification. If Golub performs the same process as applicant, the same endproduct must result.

This application contains claims 14-24 and 39-55 drawn to an invention nonelected with traverse. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Buttner whose telephone number is 571-272-1084. The examiner can normally be reached on weekdays from 10 to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski, can be reached on 571-272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/807,846

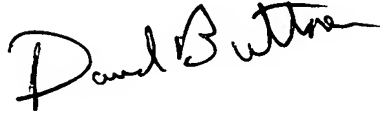
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DAVID J. BUTTNER
PRIMARY EXAMINER

David Buttner

3/14/06

A handwritten signature in black ink that reads "David Buttner". The signature is written in a cursive style with a large, stylized "D" and "B".